

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s): Daniel W. Kazmierski & Randall C. Jenkins

Serial No.: 08/785,077 Group Art. Brtch: 1,07

Filed: 1-17-97 Examiner: H. A. W.

For: MECHANICALLY FROTHED AND CHEMICALLY BLOWN
POLYURETHANE FOAM

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Date of Deposit April 25, 1997

I hereby certify that this paper or fee is being deposited with the United States Postal Service, with sufficient postage "Express Mail Post office to Addressee" service under 37 CFR 1.10 on the date indicated above and is addressed to the Assistant Commissioner of Patents and Trademarks, Washington, D.C. 20231

Nancy F. Hobbs
(Typed or printed name of person mailing paper or fee)
Nancy F. Hobbs
(Signature of person mailing paper or fee)

Assistant Commissioner of Patents & Trademarks
Washington, D.C. 20231

Sir:

PETITION UNDER 37 C.F.R. §1.47; INVENTOR UNAVAILABLE OR
REFUSES TO EXECUTE APPLICATION

One of the co-inventors, Randall C. Jenkins, in the above referenced application, hereby petitions the Commissioner to accept the application without the execution of the DECLARATION & POWER OF ATTORNEY (hereinafter declaration) by the other co-inventor, Daniel W. Kazmierski, because Mr. Kazmierski refuses to sign the declaration sent to him several months ago. Please charge \$130.00 for this petition under 37 C.F.R. §1.17(h) to our Deposit Account No. 04-1512. If this estimate is incorrect, please charge or credit our account accordingly. Two duplicate copies of this sheet are enclosed.

Also attached is the verified statement of Mr. Gene L. Tyler, a registered patent attorney and the attorney of record on application S/N 60/010,247. Mr. Tyler's

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Statement detailed the efforts of petitioner to secure Mr. Kazmierski's cooperation, and, unfortunately, Mr. Kazmierski refused to furnish any further information regarding this invention despite frequent interview of him obligating him to do so and notwithstanding the fact that he executed the Assignment in favor of Dow. Also attached is an Affidavit from the Chief Executive Officer of Mr. Kazmierski's employer, setting out the elements which show that The Dow Chemical Company, the petitioner's employer, has a proprietary interest in the invention disclosed in the above referenced patent application.

Failure to grant this petition, accept the application, and grant it the priority date of the parent provisional application will result in irreparable harm to, or prejudice the rights of, your petitioner. This is true because the invention has been commercialized for at least one year, and the subject of Foreign applications which will publish in the near future. The published applications could serve as prior art or a statutory bar to a new application.

As shown by the attached declaration of Gene L. Tyler, diligent efforts have been made to secure Mr. Kazmierski's cooperation, to no avail. His last known address and telephone number are:

Mr. Daniel W. Kazmierski
766 Tibbs Bridge Road
Chatsworth, GA 30705
Tel. 706-277-3778

In order to prevent infringement of rights, the grant of all of this petition is necessary and in the order, further extension and amendment of the petition is respectfully requested.

Respectfully submitted,
THE DOW CHEMICAL COMPANY


Kevin S.A. Dobson

Registration No. 40,296

Phone: 409-238-9041

2301 Brazosport Blvd.
Freeport, TX 77541

KSD/nfh

INDIVIDUAL ASSIGNMENT AND INVENTOR'S DECLARATION (with Priority Rights)

I/we verily believe I am/we are the original, first and sole/joint inventor(s) of the subject matter which is embraced by and for which a patent is sought on the invention entitled

MECHANICALLY FROTHED AND CHEMICALLY BLOWN POLYURETHANE FOAM

which invention was made and invented by me/us out of and in the course of my/our employment with my/our respective employer(s) as stated below my/our name(s). I/we acknowledge that I/we hold the invention and all patent and other rights and powers obtainable or exercisable in respect thereof in trust for our respective employer(s). As trustee(s), and for good and valuable consideration and/or the remuneration received for my/our work, I/we sell, assign and transfer unto

THE DOW CHEMICAL COMPANY
2030 Dow Center, Abbott Road,
Midland, Michigan 48640
United States of America

a corporation organized and existing under the laws of **the State of DELAWARE, U.S.A.**

(hereinafter referred to as the "Assignee"),

my/our entire right, title and interest throughout the world, in and to the invention and all rights and powers to make applications, including provisional applications when permitted by law, for Letters Patent in its own name, or in the name of its designee (or nominee(s)); and all rights and powers to file any corresponding or equivalent applications in any and all countries, including all rights to claim priority under all United States domestic laws, International Convention(s) and Treaties in the name of Assignee, and do hereby authorize Assignee or its designee to insert here the

Application No. _____

Filing Date _____

in country _____

of the application, on which the claim for priority will be based; and in and to any Letters Patent that may be issued for the invention in any and all countries. I/we do hereby agree to assist Assignee in the prosecution of the application(s) and in any interference, conflict, opposition or litigation which may arise involving the invention or the patent or patents thereon, and to execute for any and all countries any document relating to applications derived from, corresponding to or equivalent to the above identified application as Assignee may request; and I/we do hereby authorize Assignee or its designee (or nominee(s)) to insert here any corresponding equivalent

Application No. _____

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in country _____

to the above Priority application of any country where that country's patent property must be identified and entered hereinabove, for recordal of this Assignment. I/we authorize Assignee or its designee to translate this Assignment into all languages necessary, and we request that any such Letters Patent be issued to Assignee; and consent to the recordal of this Assignment, or a Notarial True Copy thereof, being under covenant not only that I/we have full power to make the same, but also that such assigned rights are not encumbered by any grant, license, or other right heretofore given

Subscribed and Declared by me/us:

At _____
this 31 st day of January, 19 96
Effective as of January 19, 1996
Signature Daniel W. Kazmierski
Full Name: **Daniel W. Kazmierski**
Residence: **766 Tibbs Bridge Road**
Chatsworth, GA 30705
Country: **United States of America**
Citizenship: **United States of America**
P.O. Address: **Same as Residence**
Employed By: **Custom Coating**
Of Country: **United States of America**

At _____
this 6 th day of February, 19 96
Effective as of January 19, 1996
Signature Randall C. Jenkins
Full Name: **Randall C. Jenkins**
Residence: **1927 Canterbury Lane**
Dalton, GA 30720
Country: **United States of America**
Citizenship: **United States of America**
P.O. Address: **Same as Residence**
Employed By: **The Dow Chemical Company**
Of Country: **United States of America**

At _____
this _____ day of _____ 19 _____
Signature _____

Full Name: _____
Residence: _____

Country: _____
Citizenship: _____
P.O. Address: _____
Employed By: _____
Of Country: _____

At _____
this _____ day of _____ 19 _____
Signature _____
Full Name: _____
Residence: _____

Country: _____
Citizenship: _____
P.O. Address: _____
Employed By: _____
Of Country: _____

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